



image

3644

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

KAREL VAN DEN BERG

Serial No.: 09/828,358

Group Art Unit: 3644

Examiner: Kimberly S. Smith

Filed: April 9, 2001

For: A FEED METERING DEVICE

Docket No.: 8553/213

RESPONSE TO SECOND NOTICE OF NON-COMPLIANT AMENDMENT

To the Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is submitted in view of the Notice of Non-Compliant Amendment which was mailed November 3, 2003. The Notice states that the Amendment is not compliant because a complete listing of all of the claims was not present. As previously stated in the paper filed November 7, 2003, this is clearly incorrect inasmuch as the Amendment which was filed August 19, 2003 contains on page 2 a complete list of the claims as follows:

Claims 1-61 and 68 (cancelled).

Claims 62-67 and 69-74 (previously presented).

Claims 75-106 (new).

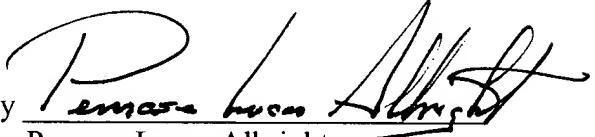
The instant Notice of Non-Compliant Amendment differs from the first such notice in that it also has checked that each claim has not been provided with proper status identifier, and as such, the individual status of each claim cannot be identified.

Inasmuch as the individual status of each claim is clearly identified as set forth above, the undersigned telephoned the legal instant Examiner, D. Bates, on December 5, 2003 for clarification. It is believed that the attached meets the intended requirement set forth in the notice of December 3, 2003, as explained by D. Bates.

Incidentally, it is set forth in such notice that it is not an action under 35 U.S.C. §132. On its face, this seems clearly in error inasmuch as an "objection or requirement" is made. Sometime back, the then-existing U.S. Court of Claims set forth the following riddle in its decision: "If we call a dog's tail, a leg, how many legs does the dog have?" The answer was "four" with the court explaining that calling a dog's tail a "leg" does not make the tail a leg. In the same sense, stating that a Notice of Non-Compliance Amendment is not an action under 35 U.S.C. §132 does make it so. This, of course, does not appear to be relevant to the instant compliance to the notice of December 3, 2003, but the undersigned considered that as a matter of good form it should be mentioned.

Respectfully submitted,

MASON, MASON & ALBRIGHT

By 
Penrose Lucas Albright
Registration No. 19,082

2306 South Eads Street
P.O. Box 2246
Arlington, VA 22202
Tel (703) 979-3242
Fax (703) 979-2526

Filed: December 8, 2003